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Attorneys for Defendant CHARTER
COMMUNICATIONS, INC. and
SPECTRUM MANAGEMENT
HOLDING COMPANY, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

STEVE GALLION
Individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

CHARTER COMMUNICATIONS,
INC., and SPECTRUM
MANAGEMENT HOLDING
COMPANY, LLC; DOES 1 through 10,
inclusive,

Defendants.

CASE NO. 5:17-cv-01361-CAS-KK

The Hon. Christina A. Snyder

**STIPULATION REGARDING
EXTENSION OF STAY**

[[Proposed] Order lodged concurrently]

Plaintiff Steve Gallion (“Plaintiff”) and Defendants Charter
Communications, Inc. and Spectrum Management Holding Company, LLC
 (“Defendants”) (collectively, the “Parties”), by and through their respective
counsel of record, hereby stipulate as follows:

1 WHEREAS, on February 26, 2018, this Court issued an order providing for
2 a stay of further proceedings pending (1) the decision of the definition an “ATDS”
3 in *ACA International v. FCC*, No. 15-211 (D.C. Cir.), and (2) potential
4 interlocutory appellate review of this Court’s order denying Defendants’ motion
5 for judgment on the pleadings challenging the constitutionality of 47 U.S.C.
6 § 227(b)(1)(A)(iii) (Dkt. 47); and,

7 WHEREAS, on April 8, 2020, this Court issued an order removing this case
8 from the Court’s active caseload until further application by the parties or order of
9 this Court (Dkt. 60); and,

10 WHEREAS, the Parties have continued to address the issues in this case;
11 and,

12 WHEREAS, on October 14, 2020, Plaintiff filed a First Amended Complaint
13 (Dkt. 67) with Defendants’ consent; and,

14 WHEREAS, while Plaintiff’s original Complaint alleged violations under 47
15 U.S.C. § 227(b)(1)(A)(iii) of the Telephone Consumer Protection Act (“TCPA”)
16 relating to Defendants’ alleged calls to Plaintiff using an “automatic telephone
17 dialing system” (“ATDS”) and a prerecorded voice without Plaintiff’s prior
18 express consent, Plaintiff’s Amended Complaint now pursues claims for alleged
19 violations of the California Invasion of Privacy Act, Cal. Penal Code § 632.7
20 (“CIPA”); and,

21 WHEREAS, the U.S. Supreme Court recently agreed to address a circuit
22 split regarding the correct statutory definition of an ATDS—a key issue in
23 Plaintiff’s TCPA claim—during this term. Order Granting Petition for Writ of
24 Certiorari, *Facebook, Inc. v. Noah Duguid*, No. 19-511 (S. Ct. July 9, 2020); and,

25 WHEREAS, the Supreme Court of California is set to review the issue of
26 whether CIPA applies to parties to the telephone call at issue, which is a significant
27 issue presented by Plaintiff’s CIPA claims. *Smith v. LoanMe, Inc.*, 43 Cal.App.5th
28 844 (Cal. April 1, 2020); and,

1 WHEREAS, the rulings by the U.S. Supreme Court in *Duguid* and the
2 Supreme Court of California in *Smith* will significantly clarify the legal standards
3 applying to the claims and defenses in this case; and,

4 WHEREAS, the Parties agree that an extension of the existing stay pending
5 the decisions in both *Duguid* and *Smith* will preserve party and judicial resources;
6 and,

7 WHEREAS, the Parties believe additional dispositive motion briefing and
8 discovery regarding the First Amended Complaint should be deferred until after
9 the decisions in both *Duguid* and *Smith*;

10 THEREFORE, the Parties agree that the existing stay should be extended
11 until decisions are rendered in both *Duguid* and *Smith* and that Charter's response
12 to the Amended Complaint shall be filed twenty (20) days after the second decision
13 is issued.

14 DATED: October 14, 2020

Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN,
P.C.

17
18 By: /s/ Tom Wheeler

19 TODD M. FRIEDMAN
20 MEGHAN E. GEORGE
21 ADRIAN R. BACON
TOM WHEELER

22 Attorneys for Plaintiff, STEVE GALLION
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1 DATED: October 14, 2020

Respectfully submitted,
THOMPSON COBURN LLP

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5 By: /s/ Helen B. Kim
HELEN B. KIM

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7 **LATHAM & WATKINS LLP**
MATTHEW A. BRILL (*pro hac vice*)
8 ANDREW D. PRINS (*pro hac vice*)
Attorneys for Defendant CHARTER
9 COMMUNICATIONS, INC. and
10 SPECTRUM MANAGEMENT
11 HOLDING COMPANY, LLC
12

13 **ATTESTATION**

14 Pursuant to Civil Local Rule 5-4.3.4(a)(2)(i), I attest under penalty of
15 perjury that I have obtained concurrence and authorization of Tom Wheeler and to
16 affix his electronic signature to this filing.

17
18 DATED: October 14, 2020

19 By: /s/ Helen B. Kim
20 HELEN B. KIM
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 2029 Century Park East, Suite 1900, Los Angeles, CA 90067.

On October 14, 2020, I served true copies of the following document(s) described as:

STIPULATION REGARDING EXTENSION OF STAY

on the interested parties in this action as follows:

Todd M. Friedman

Attorneys for Plaintiff

Meghan E. George

Adrian R. Bacon

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BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 14, 2020, at Los Angeles, California.

Deborah G. Clow

/s/ Deborah G. Clow